

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

Case No. 06-80197-CR-RYSKAMP/HOPKINS

**UNITED STATES OF AMERICA**

**vs.**

**YUNG BAE KIM,**

**Defendant.**

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**FACTUAL PROFFER SUPPORTING CHANGE OF PLEA**

Defendant Yung Bae Kim (hereinafter referred to as the “defendant”), his counsel, and the United States agree that, had this case proceeded to trial, the United States would have proven the following facts beyond a reasonable doubt, and that the following facts are true and correct and are sufficient to support a plea of guilty:

1. Between 2000 and 2005, KL Group, LLC, and KL Triangulum Management, LLC were Limited Liability Companies with offices in Irvine, California and West Palm Beach, Florida. They were established to advise and control a number of Hedge Funds, which are listed in paragraph one of the indictment, engaged in day trading of stocks on various exchanges. At all times relevant to the indictment, the LLC’s referred to above, and the Hedge Funds they advised, were controlled by defendants Jung Bae Kim (hereinafter “John Kim”), Won Sok Lee and Yung Bae Kim.

2. Shoreland Trading, LLC was a Broker-Dealer controlled by, among others, defendant Won Lee. Shoreland executed stock trades for the various KL Hedge Funds through numerous accounts at a number of different Wall Street clearing firms.
3. Between 2000 and 2005, the KL Hedge Funds received about \$194 million from about 250 investors. John Kim was falsely held out to be a master day-trader that employed a proprietary trading system earning profits in excess of 100% per year for investors.
4. Between the year 2000 through about February 2005, defendant Yung Bae Kim, his brother, defendant John Kim and defendant Won Sok Lee conspired with each other to use the interstate wires and United States Mail to perpetuate a scheme to defraud investors in the various Hedge Funds. The nature of the scheme was that investors were lied to in order to induce them to invest in the Hedge Funds. The lies took the form of misrepresentations to investors about the performance of the particular funds. To induce them to invest, victims were told that each of the funds was profitable, when in fact none were. These false statements regarding fund performance were made orally, through a website containing false information about KL's profitability, and, once an investor signed up, through false account statements periodically sent to investors by mail and email. Counterfeit clearing firm statements were also used to perpetuate the scheme when needed to entice victims to invest or keep their money invested. Investor funds were used to fund lavish office space, giving the false appearance of success. Numerous proprietary traders were placed around the KL

offices to give the appearance of a busy, robust operation. Investors, employees of KL and even the traders themselves were falsely told that the “Prop” traders were trading KL Company’s own money, when in fact they were trading investor money.

5. The account statements sent to investors falsely stated that the Hedge Funds were earning outstanding profits on a regular basis, when in fact the funds were losing millions of dollars each and every quarter. KL took substantial commissions and performance bonuses out of investor funds based on the false account statements and at times used investor funds directly for personal expenses.
6. Defendant Yung Bae Kim joined the conspiracy at a point in time after its inception. After joining the conspiracy, Yung Bae Kim helped perpetuate the scheme in several ways, including the preparation of false investor account statements. Investors were falsely informed that an accounting firm prepared the statements based on actual earnings, when in fact defendant Yung Bae Kim helped prepare them while knowingly using false information. The false account statements reported profits in the various funds, despite the fact that defendant and his coconspirators knew that the funds were suffering substantial losses and hemorrhaging cash.
7. Defendant Yung Bae Kim also helped perpetuate the fraud by deceiving investor representatives reviewing the funds’ performance. For example, with respect to the Triangulum Fund, defendant Yung Bae Kim transferred profitable trades from other funds into Triangulum when it was under review to give it the false appearance of profitability. Defendant Yung Bae Kim and his co-conspirators also created

counterfeit clearing firm statements in order to mislead investors and others that reviewed KL's financial information.

8. In or about December 2004, defendant Yung Bae Kim and his co-conspirators devised a plan to prevent two investor defections from the funds. The co-conspirators, including Yung Bae Kim, created bogus trade sheets for a large purchase and sale of stock in the company that makes the Blackberry email device – Research In Motion (“RIMM”). The fictitious trade purported to show a one-day profit of \$22 million and it was broadcast company-wide. The RIMM trade was celebrated in KL offices on both coasts and touted to investors, including two that had been considering pulling out their investments. The RIMM trade, however, never took place.
9. With respect to Count 8 of the indictment, on March 3, 2005, Yung Bae Kim and his co-conspirators perpetuated the scheme to defraud investors by knowingly causing an email communication containing false information regarding fourth quarter investment results to be sent in interstate commerce to investor NG.

10. Defendant Yung Bae Kim joined the conspiracy voluntarily with knowledge of its illegal nature. He took all his actions during the course of his participation in the conspiracy, only some of which are referenced above, knowingly and with intent to defraud.

Respectfully submitted,

R. ALEXANDER ACOSTA  
UNITED STATES ATTORNEY

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By: \_\_\_\_\_  
STEPHEN CARLTON  
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YUNG BAE KIM  
DEFENDANT